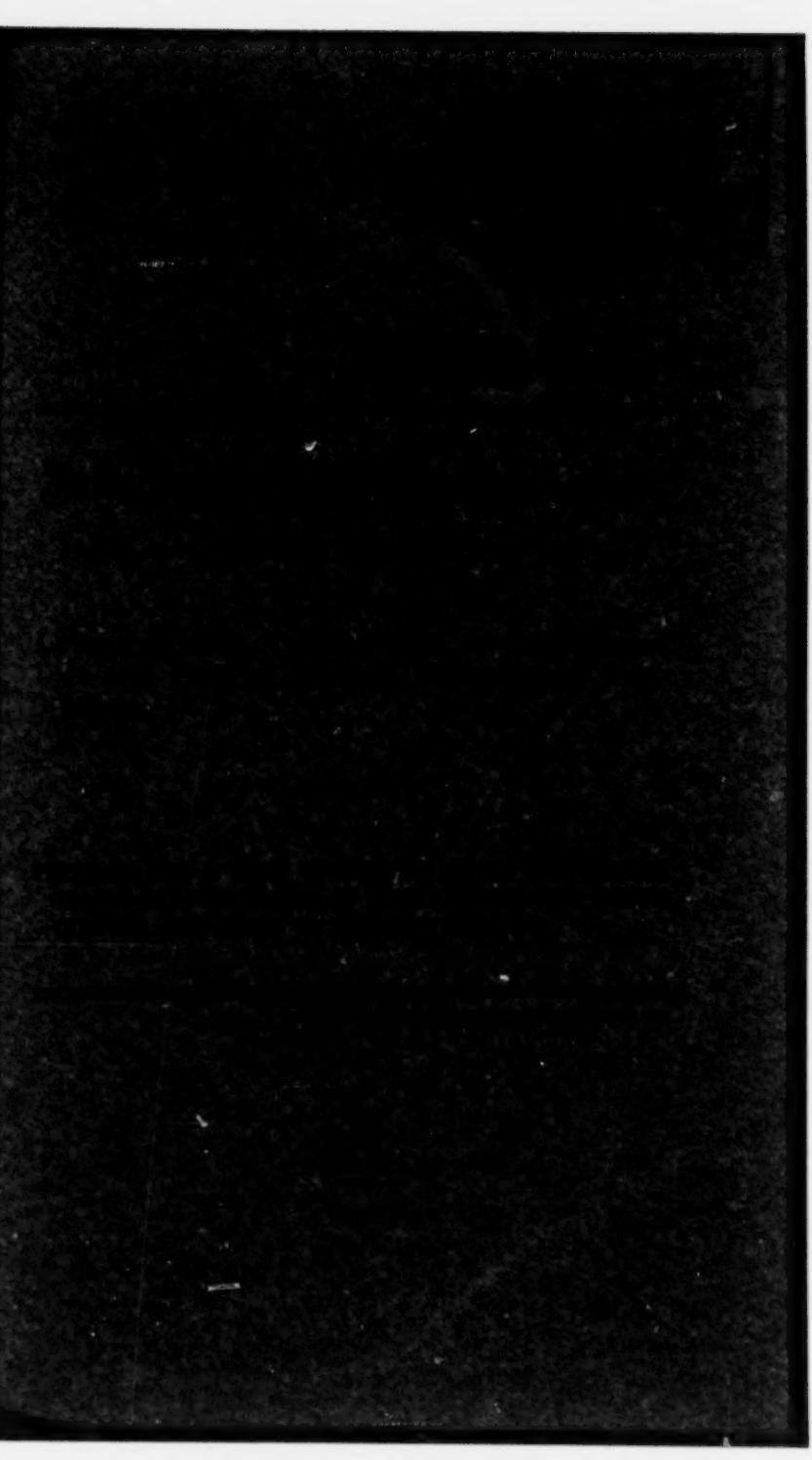

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In the Supreme Court of the United States

OCTOBER TERM, 1925

No. ——

LUTHER WEEDIN, COMMISSIONER OF IMMIGRATION at the Port of Seattle, Washington, Petitioner

v.

CHIN BOW

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

The Solicitor General, on behalf of Luther Weedin, Commissioner of Immigration at the Port of Seattle, Washington, prays that a writ of certiorari issue to review the judgment of the Circuit Court of Appeals for the Ninth Circuit entered in the above case on August 3, 1925, affirming the judgment of the District Court for the Western District of Washington.

QUESTION PRESENTED

I

Is a child born abroad, of a foreign-born father of Chinese descent who is a citizen of the United States and now resides therein but who had never resided in the United States at the time of the

birth of such child, entitled to admission to the United States as a citizen thereof under the provisions of Section 1993 of the Revised Statutes of the United States?

STATEMENT

This case arose out of the exclusion from the United States by the immigration authorities of the respondent, Chin Bow, a ten-year-old child of Chinese descent born abroad, whose father is a citizen of the United States, but was born in China and had never resided in the United States at the time of the birth of the respondent.

The Government contends that under the provisions of Section 1993 of the Revised Statutes the respondent is not admissible to the United States as a citizen thereof, because his father, a citizen of the United States, had never resided in the United States at the time of the birth abroad of the respondent; whereas the respondent contends that under the provisions of such section he is admissible to the United States as a citizen thereof, because his father, a citizen of the United States, came to this country after the birth of the respondent and was residing here at the time the respondent applied for admission.

Upon petition for habeas corpus the District Court for the Western District of Washington, without opinion, ordered that the respondent be discharged from the custody of the immigration authorities. On appeal the order of the District

Court was affirmed by the Circuit Court of Appeals for the Ninth Circuit on the ground that the respondent was entitled to enter the United States as a citizen thereof under the provisions of Section 1993 of the Revised Statutes of the United States.

For the language of the statutes involved and a more detailed statement of the facts, reference is made to the supporting brief included herein.

REASONS FOR GRANTING THE PETITION

1. The Circuit Court of Appeals has misconstrued the meaning of the second clause or proviso, "but the rights of citizenship shall not descend to children whose fathers never resided in the United States," as used in Section 1993 of the Revised Statutes of the United States.

2. The court's construction of the proviso overrules the settled practice of the Department of State with respect to applications for passports under the immigration laws and registration in consulates under Section 6 of the Act of March 2, 1907, ch. 2534 (34 Stat. 1229), as well as the practice of the Department of Labor in the matter of admission of immigrants under the Immigration Law of 1924 (43 Stat. 153).

3. The case is one of great public importance and of great importance to the Government in the administration of the laws relating to immigration and citizenship, for the reason that it affects the admission to this country and the protection abroad of children born abroad whose

fathers are citizens of the United States but never resided in this country at the time of the birth of such children.

4. Under the decision of the Circuit Court of Appeals successive generations of persons of foreign descent who have evaded the responsibilities of American citizenship and are ignorant of our language, customs, and institutions may be admitted to the United States, although otherwise inadmissible under the immigration laws.

5. The case involves an important question of federal law which has not been, but should be, settled by this Court.

Wherefore it is respectfully submitted that this petition for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Ninth Circuit should be granted.

WILLIAM D. MITCHELL,
Solicitor General.

OCTOBER, 1925.

BRIEF IN SUPPORT OF PETITION

OPINIONS OF THE COURTS BELOW

The opinions of the courts below have not yet been reported. However, the order of the District Court for the Western District of Washington, discharging the respondent on habeas corpus proceedings, without opinion, will be found on page 14 of the transcript of record and the opinion of the Circuit Court of Appeals for the Ninth Circuit on page 31 thereof.

JURISDICTION

The judgment of the Circuit Court of Appeals for the Ninth Circuit was entered on August 3, 1925. (R. 32.)

No question of jurisdiction was raised in the courts below.

Jurisdiction of this Court is invoked under Section 240 (*a*) of the Judicial Code as amended by the Act of February 13, 1925. (44 Stat. 936, ch. 229.)

STATEMENT OF FACTS

The respondent applied for admission to the United States as the son of a citizen of the United States upon his arrival from China at Seattle, Washington, on July 9, 1924. (R. 2.)

He claimed to be the son of Chin Dun. The father, Chin Dun, was born in China, being the

son of Chin Tong. Chin Tong, the respondent's grandfather, was born in the United States and is therefore an American citizen. Chin Dun, the respondent's father, though born in China, is also an American citizen under the provisions of Section 1993 of the Revised Statutes. Chin Dun, the respondent's father, born in China, first came to this country on July 18, 1922. The respondent, Chin Bow, was born March 29, 1914. (Original Immigration Record, pp. 34, 49, mentioned R. 22.)

After a hearing before the Board of Special Inquiry at the Port of Seattle, the respondent was denied admission to the United States on the following grounds:

1. That the claim of relationship had not been established.

2. That he was not a citizen, for the reason that his father had never resided in the United States at the time of his birth abroad.

3. That he was an alien ineligible to citizenship and therefore inadmissible under Section 13 (c) of the Immigration Act of 1924. (Original Immigration Record, p. 32.)

On appeal the decision of the Board of Special Inquiry was affirmed by the Secretary of Labor, with the exception that the claim of relationship was admitted. (Original Immigration Record, p. 49-47.) Thereafter the respondent was ordered deported. (R. 8.)

A petition for a writ of habeas corpus was filed in the United States District Court for the West-

ern District of Washington, alleging that the evidence taken before the Board of Special Inquiry showed that the respondent is a citizen of the United States (R. 1). After a hearing on an order to show cause why a writ of habeas corpus should not issue, an order was entered granting the writ (R. 9), and subsequently an order discharging the respondent was entered (R. 14). The District Court did not render a written opinion.

On appeal, the Circuit Court of Appeals for the Ninth Circuit affirmed the judgment of the District Court, on the ground that the respondent was entitled to admission to the United States as a citizen thereof under the provisions of Section 1993 of the Revised Statutes. (R. 31.)

STATUTES INVOLVED

Section 1993 of the Revised Statutes of the United States provides:

> All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

Section 6 of the Act of March 2, 1907, ch. 2534 (34 Stat. 1229), provides:

> All children born outside the limits of the United States, who are citizens thereof in

accordance with the provisions of Section nineteen hundred and ninety-three of the Revised Statutes of the United States and who shall continue to reside outside the United States shall, in order to receive the protection of this Government, be required upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States and shall be further required to take the oath of allegiance to the United States upon attaining their majority.

Section 4 of the Immigration Act of 1924 (43 Stat. 153), provides:

> When used in this act the term "nonquota immigrant" means—
>
> (a) An immigrant who is the unmarried child under 18 years of age, or the wife, of a citizen of the United States who resides therein at the time of the filing of a petition under Section 9 * * *

Section 13 of the Immigration Act of 1924 provides:

> (c) No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a nonquota immigrant under the provisions of subdivisions (b), (d), or (e) of Section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him,

or (3) is not an immigrant as defined in Section 3.

SPECIFICATION OF ERRORS TO BE URGED

The errors which petitioner urges as ground for the granting of the writ of certiorari and for the reversal of the decision of the Circuit Court of Appeals for the Ninth Circuit are:

1. The court erred in holding that children born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, but whose fathers had never resided in the United States at the time of their birth, are citizens of the United States within the meaning of Section 1993 of the Revised Statutes of the United States.

2. The court erred in holding that the respondent was admissible to the United States as a citizen thereof under the provisions of Section 1993 of the Revised Statutes of the United States.

ARGUMENT

I

The purpose of Congress and the wording of the act support the construction that the residence prescribed must occur prior to the birth of the foreign-born children

At the common law all persons (with certain exceptions not material here) born within the allegiance and jurisdiction of the King were natural-born subjects. The acquisition of nationality by descent is foreign to the principles of the common

law and is based wholly upon statutory enactments. *United States* v. *Wong Kim Ark*, 169 U. S. 649. In England the statute of 25 Edward III (1350) conferred the rights of ligeance upon foreign-born children of natural-born subjects; and by the statute of 13 George III (1773) such rights were extended to foreign-born grandchildren of natural-born subjects. The ancient rule of citizenship by birth within the dominion, and not by descent, prevails in the United States. *United States* v. *Wong Kim Ark, supra;* Section 1992, Revised Statutes; 14th Amendment, Constitution of the United States.

Under the constitutional power "to establish an uniform rule of naturalization" Congress, by successive acts, has made provision for the admission to citizenship of certain classes of persons, among them being foreign-born children of American citizens, coming within the definitions prescribed by Congress.

The Act of March 26, 1790, ch. 3 (1 Stat. 104), provided as follows:

> The children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural-born citizens: Provided, that the right of citizenship shall not descend to persons whose fathers have never been resident in the United States.

Subsequently other acts were passed in substantially the same words as follows:

> The Act of January 29, 1795, ch. 20 (1 Stat. 415); Act of April 14, 1802, ch. 28, Section 4 (2 Stat. 155); Act of February 10, 1855, ch. 71 (10 Stat. 604).

The Act of 1855 took the following form as Section 1993 of the Revised Statutes of the United States:

> All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

Van Dyne in "Citizenship of the United States," p. 34, in discussing Section 1993 and prior statutes, declares:

> If the father was born abroad, and has always resided abroad, his child is not a citizen, for the statute expressly declares that "the rights of citizenship shall not descend to children whose fathers never resided in the United States." This limitation of the privileges of citizenship to the children of citizens who have resided in the United States was designed to prevent the residence abroad of successive generations of persons claiming the privileges of American citizenship while evading its duties.

Borchard in "Diplomatic Protection of Citizens Born Abroad," p. 609, agrees with Van

Dyne's statement of the purpose of Section 1993, Borchard continues: "It seems not to have been judicially determined whether the residence of the father in the United States must necessarily have preceded the birth of the child, but by the fact that the statute provides that citizenship shall not 'descend,' it is believed that the residence prescribed must have preceded the birth of the child, and such has been the construction of the Department (of State)."

Borchard's opinion that the residence prescribed in the proviso must have preceded the birth of the child would seem to be confirmed by a consideration of the entire section. A proviso should be construed with reference to the subject matter of the sentence of which it forms a part, unless it clearly appears to be designed for a broader and more independent operation. *United States* v. *Bernays*, 158 Fed. 792; Sutherland, Statutory Construction (1 ed.), Section 223. It is apparent that the proviso here restricts rather than broadens the prior subject matter expressly limiting the class of persons to which the general enacting clause is applicable. In the first clause the rights of citizenship are granted to foreign-born children whose fathers were or may be citizens of the United States at a certain time, namely, at the time of the birth of such children. The status of the father at the time of the birth of the child determines the latter's rights; acquisition of

citizenship by the father after the birth of the child is not sufficient to invest the child with the rights of citizenship. By the proviso the status of the father at the time of the birth of the child is further limited or qualified—the father not only must be a citizen of the United States, but also must have resided therein. The statute may be read as if it said:

> All children heretofore born or hereafter born out of the limits and jurisdiction of the United States whose fathers, having resided in the United States, were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States.

If the residence prescribed in the proviso may occur after the birth of the children, the door is opened to the very evils Congress intended to prevent. The father may come to the United States for the first time after his children have reached maturity, and thus enable the children at some later date to enter this country as citizens thereof. Such children, once their right of admission is perfected by the residence of the father, may delay their entry until middle age; yet they would be entitled to admission, even though ignorant of American language, customs, and institutions. They must be admitted as citizens, although they have evaded the duties and responsibilities of citizenship. They may be persons likely to become public charges or afflicted with disease, yet their

right to enter is secure. The process may be repeated generation after generation.

If the residence prescribed must occur prior to the birth of the children, the evils aimed at will be remedied. When a statutory provision admits of more than one construction, that one will be adopted which best serves to carry out the purposes of the act. *Bernier* v. *Bernier*, 147 U. S. 242.

II

Subsequent statutes in pari materia indicate a legislative declaration by Congress that the residence prescribed must occur prior to the birth of the foreign-born children

Where it can be gathered from a subsequent statute *in pari materia* what meaning the legislature attached to a former statute this will amount to a legislative declaration of its meaning and will govern the construction of the first statute. *United States* v. *Freeman*, 3 How. 556; *Cope* v. *Cope*, 137 U. S. 682. That Congress has construed Section 1993 as requiring the residence prescribed to have preceded the birth of the child is clearly indicated by the Act of March 2, 1907, ch. 2534, Section 6 (34 Stat. 1229), set forth at pages 7–8, *supra*.

It should be noted that such act provides that "all children born outside the limits of the United States who are citizens thereof in accordance with the provisions of section 1993 of the Revised Statutes of the United States" shall, to receive

protection of the Government, be required upon reaching the age of 18 years to register at an American consulate, and shall be further required to take the oath of allegiance upon attaining their majority. The use of the words "all children born * * * who are citizens" is significant. If Congress construed section 1993 to permit the residence prescribed to occur after the birth of such children, it is reasonable to suppose that it would have employed appropriate words to express such meaning, e. g., "all children born * * * who are or may become citizens." But the present tense is used, indicating that citizenship is determined at the time of birth.

But even more significant are the affirmative acts required of such foreign-born children who are citizens. They are required, upon reaching the *age of 18 years*, to record their intention to become residents and *remain citizens* of the United States and take the oath of allegiance to the United States upon attaining their *majority*. If the residence prescribed may occur after the birth of the children, the father may not have resided in the United States until long after such children attain their majority. Clearly, they could not register or take the oath of allegiance, since "the rights of citizenship shall not descend to children whose fathers never resided in the United States." Therefore, a class of foreign-born children of American citizens could not

possibly comply with the provisions of the Act of 1907, which provides for "*all* children born outside the limits of the United States who are citizens thereof in accordance with the provisions of Section 1993 of the Revised Statutes of the United States." Nor could such children "remain citizens," since they are expressly denied the rights of citizenship. It is apparent that Congress construed section 1993 as requiring the residence prescribed to precede the birth of the children.

III

Great weight should be given the construction by the executive departments charged with the execution of section 1993 requiring the residence prescribed to occur prior to the birth of the foreign-born children

The practical construction given to an act of Congress, fairly susceptible of different constructions, by executive departments charged with the duty of executing it is entitled to great respect and, if acted upon for a number of years, will not be disturbed except for cogent reasons. *McLaren v. Fleischer*, 256 U. S. 477, and cases cited at p. 481.

The Department of State has taken the position that foreign-born children of American fathers who have never resided in the United States prior to the birth of such children are not citizens of the United States under the provisions of Section 1993 of the Revised Statutes. Special Instruction, Con-

sular, No. 340, July 27, 1914, including opinion of Solicitor. (See Compilation Dept. Circulars relating to Citizenship, etc., p. 43, Government Printing Office, 1915.)

Until recently the Department of Labor has never had occasion to rule directly upon the residence prescribed in Section 1993, inasmuch as children in the position of the respondent were admitted to the United States as minor children of American citizens prior to the Immigration Act of 1924. Section 13 (c) of that act (see p. 8) expressly excludes such children from admission as minor children of American citizens of Chinese descent. *Chang Chan* v. *Nagle*, 16 Sup. Ct. Ad. Op. 642, decided May 25, 1925.

A statute ought not to be expounded by detached words and phrases; but the whole act must be taken together and be given a fair interpretation, neither extending nor restricting it beyond the legitimate import of its language and its obvious policy and object. *Gayler* v. *Wilder*, 10 Howard 477. So, too, in case of an ambiguous statute the narrow technical definition of words used will give way to the intention of Congress and the object aimed at. In view of the purpose of Section 1993, the character of the right conferred, the fact that citizenship of foreign-born children is purely statutory and contrary to the common-law doctrine, it is submitted that the Circuit Court of Appeals unduly emphasized the narrow technical definition of the word "descend."

The first clause of section 1993 confers citizenship on foreign-born children at the time of their birth if their fathers occupy a certain status at that time, viz, "are citizens thereof." It may be said that the rights of citizenship are acquired by such children "by descent." Yet such rights do not "descend" in the technical legal sense at the death of the ancestor, but on the birth of the child. In like manner, the rights of citizenship mentioned in the second clause or proviso "descend," if at all, at the birth of the children. So construed, the purpose of Congress is effected, and the word "descend" interpreted in the light of the entire section.

CONCLUSION

In view of the fact that the question here involved is of great importance in the practical administration of the laws relating to immigration and citizenship, it is respectfully submitted that the petition for a writ of certiorari should be granted.

WILLIAM D. MITCHELL,
Solicitor General.

O. R. LUHRING,
Assistant Attorney General.

FRANK M. PARRISH,
Special Assistant to the Attorney General.

OCTOBER, 1925.

○

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In the Supreme Court of the United States

OCTOBER TERM, 1926

No. 237

LUTHER WEEDIN, COMMISSIONER OF IMMIGRATION at the Port of Seattle, Washington, petitioner

v.

CHIN BOW

By permission of the Court, the annexed Instruction and Memorandum are submitted as an appendix to petitioner's brief. They are found at pages 43–45 of a volume entitled "Compilation of Certain Departmental Circulars Relating to Citizenship, Registration of American Citizens, Issuance of Passports, etc.," printed at the Government Printing Office, 1915.

WILLIAM D. MITCHELL,
Solicitor General.

38890—27

[No. 340. Special instruction. Consular]

CITIZENSHIP OF CHILDREN BORN OF AMERICAN FATHERS WHO HAVE NEVER RESIDED IN THE UNITED STATES

The Secretary of State to the American diplomatic and consular officers in China and Turkey.

DEPARTMENT OF STATE,
Washington, July 27, 1914.

GENTLEMEN: The department's attention has been drawn of late, through applications for passports and registration in consulates, to the question of the citizenship of persons born in China and Turkey, whose fathers were also born therein and claimed American citizenship under the provision of section 1993 of the Revised Statutes of the United States, but had never resided in the United States.

Sections 1992 and 1993 of the Revised Statutes of the United States read as follows[1]:

The provision of section 1992 is similar to the following provision of the fourteenth amendment to the Constitution, so far as it applies to native citizens:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.

[1] See p. 60. (Upon page 60 of the Compilation are set forth various sections of the Revised Statutes.)

It is obvious that persons of the class mentioned can not claim American citizenship under the provision of section 1993 of the Revised Statutes, since their fathers had never resided in the United States when such persons were born. Moreover, the department considers that these persons were not born citizens of the United States under the provision of section 1992 of the Revised Statutes or the provision of the 14th amendment to the Constitution just quoted, which, in the department's opinion, are applicable only to cases of persons actually born within the territory and jurisdiction of the United States. Consequently the department holds that persons of the class mentioned are not citizens of the United States, even though their fathers may have resided in American communities and submitted themselves to the extraterritorial jurisdiction of the United States. Therefore, such persons are not entitled to the protection of this Government.

It is important to observe that this ruling is contrary to the ruling of the department set forth in the instruction No. 22 of August 9, 1887, to the consul at Smyrna, Turkey (Foreign Relations of the United States for 1887, p. 1125; Moore's International Law Digest, vol. 3, pp. 287, 288), and to the similar ruling contained in the department's instruction No. 28, of January 6, 1888, to the consul general at Apia, Samoa. (Moore's International Law Digest, vol. 3, pp. 288, 289.)

A copy of the opinion of the Solicitor, dated June 22, 1914, in the case of Ben Zion Lilienthal is appended hereto.

I am, etc.,

W. J. BRYAN.

[Inclosure]

MEMORANDUM IN THE MATTER OF THE CITIZENSHIP OF BEN ZION LILIENTHAL

DEPARTMENT OF STATE,
OFFICE OF THE SOLICITOR,
June 22, 1914.

Upon the statement in this case, it appears that Lilienthal, a member of the Zionist community, was born in Jerusalem in 1883. Neither he nor his father ever resided in the United States; but the grandfather was a naturalized citizen of this Government and, of course, resided at one time in the United States.

The father of Lilienthal was a citizen of the United States, under the laws of this Government, for the reason that he was born son of a citizen of the United States who had resided in the United States.

It seems to me that the statement of fact that neither Lilienthal nor his father ever resided in the United States settles the question of Lilienthal's claim of United States citizenship against him.

The applicable statute of Congress reads:

> All children heretofore born, or hereafter born, out of the limits and jurisdiction of

> the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; *but the rights of citizenship shall not descend to children whose fathers never resided in the United States.*

The whole question turns upon the proper construction of the words "resided in the United States." This language is to be taken in its ordinary and plain significance, and when so taken seems to settle the question at hand.

I perceive no foundation for the contention made in some of the memoranda attached to this correspondence—that residence of Lilienthal's father in a Zionist community in Turkey was residence in the United States. That is a too attenuated stretch of the words of the statute, no matter what may be the extraterritorial rights of the United States in these Turkish communities.

In the last clause of the statute the words "jurisdiction of the United States," found in the first clause, are significantly omitted; and this omission I consider to have been by design and not by inadvertence. The last clause of the statute is an express limitation on the first; and the statute may be read as if it said "all children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers, having resided in the United States, were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States."

The contention that as Lilienthal's father resided in a Zionist community over which the United States has some sort of extraterritorial rights he resided in the United States answers itself; for if it be conceded that, on account of the extraterritorial rights of the United States in these Zionist communities, they are "within the jurisdiction of the United States," then Mr. Lilienthal can not claim citizenship under section 1993 because, under such contention, he was not born out of the limits *and jurisdiction* of the United States, and he would have to look to section 1992 for his right of citizenship. When we look to that section we find it there enacted that "all persons born *in the United States* and not subject to any foreign power, etc., are declared to be citizens of the United States." Two things must concur under this section to give citizenship—birth in the United States and nonsubjection to a foreign power. Can Lilienthal be said to have been born in the United States? Manifestly not. I recall no decision in which the words of this statute, or similar words used in other legislative enactments requiring residence within a particular political division, have been stretched to cover residence outside of such division or territory and in a foreign country. Residence necessarily involves the idea of locality, of place—an abiding within particular territorial limits.

The discussion of the origin and characteristics of Zionist communities and their relation to the

Turkish Government, as relating to the question of the extraterritorial rights of the United States in such communities, is outside the question at hand, for I can not give my assent to the contention that these communities are within the United States, whatever may be the extraterritorial rights of the United States in them.

How much stronger is the argument that birth in the Philippine Islands, which the United States own outright, should be held to be birth in the United States, and that every child born in the Philippines since their acquisition by this Government is a native-born citizen of the United States in the full import of that term.

If residence in the Philippines is not counted as residence within the United States for purpose of naturalization, as I understand has been ruled by this department, how much less can residence in a Zionist community in Turkey be said to be residence in the United States.

If Lilienthal is to be held a citizen of the United States, then Lilienthal's children and descendants to the latest generation, in the same situation, will be citizens of the United States, a result which, I apprehend, the United States will not be disposed to insist upon.

I would not have considered it necessary to say so much except for certain memoranda in the files which attempt to present a contrary view and to suggest that residence of Lilienthal's father in a

Zionist community in Turkey was residence in the United States, or that Lilienthal, having been born in one of these communities in Turkey, was born in the United States. I think Chief Justice Fuller, in his dissenting opinion in United States *vs.* Wong Kim Ark, 169 U. S. 714, correctly interpreted the purpose of the last clause of section 1993, when he said:

> By this section a limitation is prescribed on the passage of citizenship by descent beyond the second generation, if then surrendered by permanent nonresidence, and this limitation was contained in all the acts from 1790 down.

(The majority opinion in that case does not announce a doctrine contrary to the conclusions above stated; that opinion holding that a child born in the United States [that is, within the territorial limits of the United States proper] of Chinese parents, who are subjects of the Emperor of China but permanently domiciled and residing in the United States and carrying on business in this country, is a native-born citizen of the United States.)

CONE JOHNSON.

U. S. GOVERNMENT PRINTING OFFICE